



*Jim*

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:

Date: January 13, 2006 Name: Steven P. Shurtz Signature: /Steven P. Shurtz/

**BRINKS  
HOFER  
GILSON  
& LIONE**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Appln. of: Julius W. Zuehlke et al.

Appln. No.: 10/536,670 ✓

Filed: May 27, 2005

For: **METHOD AND APPARATUS FOR  
UNIFORMLY ADDING PARTICULATES  
TO A COATING ON COMESTIBLES, AND  
PRODUCTS PRODUCED THEREBY**

Examiner:

Art Unit: 1712

Attorney Docket No: 1391/1650

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL**

Sir:

**Attached is/are:**

- ☒ Information Disclosure Statement; Form PTO-1449; Copies of cited references A14-A25, copy of International Search Report mailed May 27, 2005 for Serial No. PCT/US2004/028732.
- ☒ Return Receipt Postcard

**Fee calculation:**

- ☒ No additional fee is required.
- ☐ An extension fee in an amount of \$\_\_\_\_\_ for a \_\_\_\_\_-month extension of time under 37 C.F.R. § 1.136(a).
- ☐ A petition or processing fee in an amount of \$\_\_\_\_\_ under 37 C.F.R. § 1.17(\_\_\_\_\_).
- ☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			x 100=			x \$200=	
First Presentation of Multiple Dep. Claim					+\$180=			+\$360=	
					Total	\$		Total	\$

**Fee payment:**

- ☐ A check in the amount of \$\_\_\_\_\_ is enclosed.
- ☐ Please charge Deposit Account No. 23-1925 in the amount of \$\_\_\_\_\_. A copy of this Transmittal is enclosed for this purpose.
- ☐ Payment by credit card in the amount of \$\_\_\_\_\_ (Form PTO-2038 is attached).
- ☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

January 13, 2006  
Date

/Steven P. Shurtz/  
Steven P. Shurtz (Reg. No. 31,424)



# **CERTIFICATE OF MAILING**

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Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450,  
on January 13, 2006

Date of Deposit

Steven P. Shurtz

Name of applicant, assignee or  
Registered Representative

/Steven P. Shurtz/

Signature

January 13, 2006

Date of Signature

## **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Appln. of: JULIUS W. ZUEHLKE et al.

Appln. No.: 10/536,670

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Attorney Docket No: 1391-1650

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## **INFORMATION DISCLOSURE STATEMENT**

In accordance with the duty of disclosure under 37 C.F.R. §1.56 and §§1.97-1.98, and more particularly in accordance with 37 C.F.R. §1.97(b), Applicants hereby cite the following references:

### **U.S. PATENT DOCUMENTS**

<b>No.</b>	<b>Date of Publication</b>	<b>Patentee/Applicant/Assignee</b>
4,127,677	11/28/1978	Fronczkowski et al.
4,744,991	05/17/1988	Serpelloni
5,171,589	12/15/1992	Richey et al.
5,298,263	03/29/1994	Yatka et al.
5,629,035	05/13/1977	Miskewitz
5,702,687	12/30/1997	Miskewitz
US 2002/117108 A1	08/29/2002	Pentecost
US 6,569,472 B1	05/27/2003	Zyck et al.
US 2004/0033293 A1	02/19/2004	Albert
US 2004/0166211 A1	08/26/2004	Gesford et al.
US 2004/0166214 A1	08/26/2004	Gesford et al.
US 2004/0202755 A1	10/14/2004	Myers et al.
US 6,863,920 B2	03/08/2005	Crum et al.

**FOREIGN PATENTS**

<b>DOCUMENT NUMBER</b> <small>Number-Kind Code (if known)</small>	<b>DATE</b>	<b>COUNTRY</b>
DE 3732677 A1	06/04/1989	Germany
EP 0516310 A2	12/02/1992	Europe
WO 97/12607	04/10/1997	WIPO
WO 97/22264	06/26/1997	WIPO
WO 99/44436	09/10/1999	WIPO
WO 02/19834 A	03/14/2002	WIPO
WO 03/047362 A	06/12/2003	WIPO

**OTHER ART – NON PATENT LITERATURE DOCUMENTS**

Brochure for Model HS-42 HI-SPEED VIBRATORY FEEDER, Eriez Magnetics, 1999, 6 pages
Candy Industry, page 50, October 2003, (describing flavored glitter from Watson Foods Co.)
Product sheet for Happydent Defensive, Perfetti Van Melle S.p.A, printed from <a href="http://www.perfetti.it/products.php">www.perfetti.it/products.php</a> on 12/22/2003, one page
Product sheet for Daygum Micortech gum, Pefetti Van Melle S.p.A., printed from <a href="http://www.perfetti.it/products.php">www.perfetti.it/products.php</a> on 12/22/2003, one page
Product Information sheet for Edible Glitter Blue – F290038, Watson Foods Co., Inc., undated, but prior to April 12, 2004, two pages

Applicants are enclosing Form PTO-1449 (one sheet), along with a copy of each listed reference for which a copy is required under 37 C.F.R. §1.98(a)(2). As each of the listed references is in English (except one German patent, for which an English translation has been provided), no further commentary is believed to be necessary, 37 C.F.R §1.98(a)(3). However, many of these references were cited in a search report in the parent PCT Application No. PCT/US2004/028732. A copy of that search report is enclosed. Applicants respectfully request the Examiner's consideration of the above references and entry thereof into the record of this application.

Applicants' assignee, The Wm. Wrigley Jr. Company, acquired Gum Tech International Inc., the applicant listed for PCT published application WO 02/19834. It is noted that the inventive entity in each application is different. One of the inventors listed in that application was consulted by the below signed attorney regarding the process by which speckles were applied during the development of the invention of that application. It is believed that none of the product developed as part of the Gum Tech work was ever sold or

publicly disclosed in the United States. It is therefore uncertain as to whether that development would in any way constitute prior art against the present application. However, out of an abundance of caution, it is noted that the inventors in the Gum Tech process had used a hand held air atomizer to distribute speckles to chewing gum pellets during a coating operation prior to September 2, 2004, the filing date of the parent PCT application for this case. If the Examiner believes that any of this information would be material to the patentability of the claims of the present application, or has questions in this regard, he is invited to direct those questions to the below signed attorney.

Applicants are aware of a number of products that were on sale prior to the filing date of their application that included speckles in the coating of the product; for example, Hershey's Ice Breakers Unleashed coated chewing gum products. However, Applicants are not aware of the process or apparatus used to make such products, nor do they believe that products with a uniform number of speckles on all products in a given batch, such as called for in claim 44, have been sold in the United States more than one year prior to the filing date of the parent PCT application.

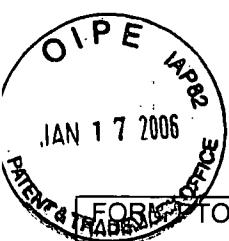
Because this statement is being filed prior to the first Office Action, Applicants have calculated no fee to be due in connection with the filing of this Statement. However, the Director is authorized to charge any fee deficiency associated with the filing of this Statement to a deposit account, as authorized in the Transmittal accompanying this Statement.

Respectfully submitted,

/Steven P. Shurtz/

Steven P. Shurtz  
Registration No. 31,424  
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FORM PTO-1449	SERIAL NO. 10/536,670	CASE NO. 1391-1650
<b>LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT</b>	FILING DATE September 2, 2004	GROUP ART UNIT 1712
(use several sheets if necessary)		APPLICANTS: JULIUS W. ZUEHLKE et al.

#### REFERENCE DESIGNATION

#### U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
/CP/	A1	4,127,677	11/28/1978	Fronczkowski et al.		
↓	A2	4,744,991	05/17/1988	Serpelloni		
	A3	5,171,589	12/15/1992	Richey et al.		
	A4	5,298,263	03/29/1994	Yatka et al.		
	A5	5,629,035	05/13/1977	Miskewitz		
	A6	5,702,687	12/30/1997	Miskewitz		
	A7	US 2002/117108 A1	08/29/2002	Pentecost		
	A8	US 6,569,472 B1	05/27/2003	Zyck et al.		
	A9	US 2004/0033293 A1	02/19/2004	Albert		
	A10	US 2004/0166211 A1	08/26/2004	Gesford et al.		
	A11	US 2004/0166214 A1	08/26/2004	Gesford et al.		
	A12	US 2004/0202755 A1	10/14/2004	Myers et al.		
↓	A13	US 6,863,920 B2	03/08/2005	Crum et al.		

#### FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES OR NO
/CP/	A14	DE 3732677 A1	06/04/1989	Germany		yes
↓	A15	EP 0516310 A2	12/02/1992	Europe		
	A16	WO 97/12607	04/10/1997	WIPO		
	A17	WO 97/22264	06/26/1997	WIPO		
	A18	WO 99/44436	09/10/1999	WIPO		
	A19	WO 02/19834 A	03/14/2002	WIPO		
↓	A20	WO 03/047362 A	06/12/2003	WIPO		

#### OTHER ART – NON PATENT LITERATURE DOCUMENTS

(Include name of author, title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date page(s), volume-issue number(s), publisher, city and/or country where published.

EXAMINER INITIAL		
/CP/	A21	Brochure for Model HS-42 HI-SPEED VIBRATORY FEEDER, Eriez Magnetics, 1999, 6 pages
↓	A22	Candy Industry, page 50, October 2003, (describing flavored glitter from Watson Foods Co.)
	A23	Product sheet for Happydent Defensive, Perfetti Van Melle S.p.A, printed from <a href="http://www.perfetti.it/products.php">www.perfetti.it/products.php</a> on 12/22/2003, one page
	A24	Product sheet for Daygum Microtech gum, Pefetti Van Melle S.p.A., printed from <a href="http://www.perfetti.it/products.php">www.perfetti.it/products.php</a> on 12/22/2003, one page
↓	A25	Product Information sheet for Edible Glitter Blue – F290038, Watson Foods Co., Inc., undated, but prior to April 12, 2004, two pages

EXAMINER /Carolyn Paden/ (10/29/2008)	DATE CONSIDERED 10/29/2008
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.